

Message Text

LIMITED OFFICIAL USE

PAGE 01 LONDON 03230 01 OF 02 281229Z
ACTION EB-08

INFO OCT-01 EUR-12 ISO-00 CAB-02 CIAE-00 COME-00
DODE-00 DOTE-00 INR-10 NSAE-00 FAA-00 L-03 SSO-00
SS-15 INRE-00 /051 W
-----062084 281234Z /11
O 281215Z FEB 78
FM AMEMBASSY LONDON
TO SECSTATE WASHDC IMMEDIATE 3605

LIMITED OFFICIAL USE SECTION 01 OF 02 LONDON 03230

E.O. 11652: N/A
TAGS: EAIR, US, UK
SUBJECT: CIVAIR: TEXT OF BRITISH RESPONSE TO US MESSAGE
ON BRANIFF FARES

REF: LONDON 3067; STATE 46400

FOLLOWING IS TEXT OF BRITISH REPLY TO US MESSAGE ON
BRANIFF FARES. SUMMARY IN SEPTTEL:

BEGIN QUOTE: THE UK AUTHORITIES HAVE CONSIDERED THE
POINTS MADE IN THE MESSAGE ENCLOSED WITH THE UNITED
STATES EMBASSY LETTER OF 23 FEB. 1978 ABOUT THE TARIFFS
FOR THEIR DALLAS/FT WORTH-LONDON-GATWICK SERVICE FILED
BY BRANIFF AIRWAYS INC. BRANIFF HAD IN FACT DEPOSITED
WITH THE UNITED KINGDOM CIVIL AVIATION AUTHORITY EARLY
IN JANUARY A PROPOSED TARIFF BUT, SINCE AT THAT TIME THE
HAD NOT BEEN DESIGNATED BY THE UNITED STATES GOVERNMENT,
THE AIRLINE WAS NOTIFIED THAT THE FILING COULD NOT BE
REGARDED AS A FORMAL FILING UNDER THE TERMS OF THE BI-
LATERAL AIR SERVICES AGREEMENT, BERMUDA 2, ARTICLE 12.

2. THE FORMAL FILING WAS MADE JUST PRIOR TO THE LAST
ROUND OF TALKS BETWEEN UNITED STATES AND UNITED KINGDOM
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 LONDON 03230 01 OF 02 281229Z

DELEGATIONS IN LONDON STARTING ON 6 FEB. JUST PRIOR TO
THOSE TALKS THE UNITED KINGDOM GOVERNMENT INDICATED ITS
DISSATISFACTION AND, AT THE TALKS EXPLAINED THE DIFFICUL-
TIES IT FORESAW IN THE BRANIFF FILING, TO THE UNITED
STATES GOVERNMENT. MORE RECENTLY FORMAL NOTIFICATION OF
DISSATISFACTION WAS GIVEN ON BRANIFF'S AMENDED FILING.

3. THE UNITED KINGDOM AERONAUTICAL AUTHORITIES HAVE IN FACT TAKEN ALL POSSIBLE STEPS TO TRY AND AGREE WITH THE REPRESENTATIVES OF BRANIFF IN LONDON ACCEPTABLE TARIFFS SO THAT SERVICES CAN BEGIN ON 1 MARCH 1978. IN INFORMAL TALKS THERE HAS BEEN AGREEMENT ON MANY OF THE FARES AND CONDITIONS IN THE TARIFFS. IT IS STILL HOPED THAT BRANIFF WILL BE ABLE TO RE-FILE ON A TIMELY BASIS TARIFFS WHICH WILL PROVE ACCEPTABLE TO THE UK AERONAUTICAL AUTHORITIES SO THAT OUR FORMAL NOTICE OF DISSATISFACTION CAN BE WITHDRAWN. ALTHOUGH THE FILING WAS NOT EFFECTED WITHIN THE TIME-SCALES OF ARTICLE 12(5) THE UK AERONAUTICAL AUTHORITIES ARE PREPARED TO CONTINUE TO PERMIT SHORT-NOTICE FILINGS.

4. IN HMG'S OPINION THERE WOULD BE NO VIOLATION OF THE BERMUDA 2 AGREEMENT IF THE UK AERONAUTICAL AUTHORITIES, FOLLOWING THE PROVISIONS OF PARAGRAPH (7) OF ARTICLE 12, DID NOT APPROVE THE PRESENT OR ANY FUTURE FILING MADE BY BRANIFF. UNDER THE TERMS OF ARTICLE 12(7) THE FARES IN FORCE BETWEEN LONDON AND DALLAS, AND FOR ANY ADDITIONAL POINTS SERVED BEHIND DALLAS BY BRANIFF AS APPLIED DURING THE LAST RELEVANT SEASON WOULD BECOME THE TARIFFS TO BE USED BY THAT AIRLINE FROM THE INCEPTION OF ITS SERVICES. PARAGRAPH (5) OF ARTICLE 12 SPEAKS OF "ANY TARIFF"; THIS CLEARLY COMPREHENDS BOTH AN INITIAL TARIFF AND ANY SUBSEQUENT TARIFF FILED BY AN AIRLINE. IF AN AIRLINE WAS LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 LONDON 03230 01 OF 02 281229Z

ABLE TO OPERATE WITH A TARIFF WHICH IT OR ITS GOVERNMENT CONSIDERED HAD BEEN ESTABLISHED AT THE LOWEST LEVEL CONSISTENT WITH A HIGH STANDARD OF SAFETY AND AN ADEQUATE RETURN TO EFFICIENT AIRLINES, THERE WOULD BE NO POINT IN HAVING FALL-BACK PROVISIONS TO COVER A FAILURE TO AGREE TARIFFS SINCE EITHER CONTRACTING PARTY COULD INSIST UNILATERALLY ON ITS AIRLINE BEING ABLE TO OPERATE AT ANY TARIFF IT BELIEVED MET THE ABOVE CRITERIA. IT IS NOT TH UNDERSTANDING OF THE UNITED KINGDOM AERONAUTICAL AUTHORITIES THAT THE BRANIFF TARIFF FILINGS AND THE LEVELS AND CONDITIONS OF CERTAIN FARES ARE COMPARABLE TO TARIFFS PREVIOUSLY APPROVED UNDER SIMILAR CONDITIONS BY THE UNITED KINGDOM CIVIL AVIATION AUTHORITY. INDEED HMG MADE IT VERY CLEAR DURING THE DISCUSSIONS ON 10 FEB. 1978 THAT MANY OF THE FARES FILED BY BRANIFF WERE PREDATORY AND LIKELY TO DAMAGE THE INTERESTS OF THE UK AIRLINE, BCAL, ON THE COMPANION ROUTE--LONDON/HOUSTON.

5. IT IS NOT HOWEVER THE INTENTION OF THE UNITED KINGDOM GOVERNMENT TO PREVENT BRANIFF OPERATING UNDER TARIFFS WHICH ARE IN ACCORDANCE WITH ALL THE RELEVANT PROVISIONS OF BERMUDA 2. IF, AS IS HOPED, THE AIRLINE CAN THROUGH

LIMITED OFFICIAL USE

NNN

LIMITED OFFICIAL USE

PAGE 01 LONDON 03230 02 OF 02 281224Z
ACTION EB-08

INFO OCT-01 EUR-12 ISO-00 CAB-02 CIAE-00 COME-00
DODE-00 DOTE-00 INR-10 NSAE-00 FAA-00 L-03 INRE-00
SS-15 SSO-00 /051 W

-----062040 281236Z /11

O 281215Z FEB 78

FM AMEMBASSY LONDON

TO SECSTATE WASHDC IMMEDIATE 3606

LIMITED OFFICIAL USE SECTION 02 OF 02 LONDON 03230

FURTHER INFORMAL CONTACTS REACH AGREEMENT WITH THE UNITED KINGDOM CIVIL AVIATION AUTHORITY AND RE-FILE ACCORDINGLY, THERE WILL BE NO DIFFICULTY IN WITHDRAWING HMG'S FORMAL NOTICE OF DISSATISFACTION. IF THE FILING CANNOT BE SUITABLY AMENDED AND THE NOTICE CANNOT BE WITHDRAWN, THE AIRLINE WILL BE ENABLED TO OPERATE WITH SUCH ELEMENTS OF THE FILED TARIFFS AS THE CIVIL AVIATION AUTHORITY CAN APPROVE OR ALTERNATIVELY IT CAN ACCEPT THE PROVISIONS OF ARTICLE 12(7) AND OPERATE AT THE TARIFFS IN FORCE FOR CARRIAGE BETWEEN LONDON AND DALLAS AND OTHER RELEVANT POINTS IN THE RELEVANT SEASONS OF 1977.

6. IN VIEW OF THE ATTEMPTS THAT THE UNITED KINGDOM AERONAUTICAL AUTHORITIES HAVE MADE TO RESOLVE THIS MATTER WITH THE US AUTHORITIES AND WITH BRANIFF, THE UNITED KINGDOM GOVERNMENT IS MUCH CONCERNED AT THE LAST SENTENCE OF THE STATE DEPARTMENT'S MESSAGE. THE THREAT OF SUCH ACTION APPEARS TO HMG CONTRARY TO THE SPIRIT OF THE BERMUDA 2 AGREEMENT AND THE PROVISIONS IN IT FOR SETTLING DISPUTES.

UNITED KINGDOM DEPARTMENT OF TRADE
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 LONDON 03230 02 OF 02 281224Z

27 FEBRUARY 1978

END QUOTE.

BREWSTER

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TEXT, AIR FARES, GOVERNMENT REACTIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 28 feb 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978LONDON03230
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780091-0759
Format: TEL
From: LONDON
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t1978024/aaaaadcj.tel
Line Count: 178
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 7bdda2d4-c288-dd11-92da-001cc4696bcc
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 78 LONDON 3067, 78 STATE 46400
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 05 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3556884
Secure: OPEN
Status: NATIVE
Subject: CIVAIR: TEXT OF BRITISH RESPONSE TO US MESSAGE ON BRANIFF FARES
TAGS: EAIR, US, UK, BRANIFF
To: STATE
Type: TE
vdkgvwkey: odhc://SAS/SAS.dbo.SAS_Docs/7bdda2d4-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014